

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gary Grell,
Appellant,

v.

Scott County Board of Review,
Appellee.

ORDER

Docket No. 13-82-0918
Parcel No. AGNY 022751005

On July 22, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Gary Grell was self-represented. County Attorney Robert Cusack is counsel for the Board of Review. County Assessor Dale Denklau represented it at hearing. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Gary Grell is the owner of a commercially classified property located at 27200 Allens Grove Road, Donahue, Iowa. According to the property record card, the subject site is 1.4 acres. It is improved by a 2720 square-foot, pole shed with a 680-square-foot mezzanine built in 1984. The property is in normal condition and has an average (Grade 4) quality construction. (Exhibit A).

Grell appeals from the Scott County Board of Review decision regarding his 2013 property assessment of \$70,670, allocated as \$31,000 in land value and \$39,670 in improvement value. Grell protested to the Board of Review claiming the subject property was misclassified under section 441.37(1)(a)(3). He contended the property should be classified as agricultural realty. The Board of Review denied the protest.

Grell then appealed to this Board reasserting his claim. We note, since agricultural property is valued differently than commercial property, a classification change would necessitate a revaluation of the land and improvements.

Grell testified the subject parcel was part of the farm that has been in his family since 1876. The subject parcel was split off from other adjacent property and deeded to the Grell Family Trust for inheritance tax purposes in 2007. Grell testified the subject property, along with others he owns in the area, were held in a family trust. Grell owns an adjoining parcel, and his homestead is across the street on Allens Grove Road. Grell operates a truck transportation business, storing semi-trailers and tractors on the site. The parcel has water and electric but no septic system. He applied for the business property tax credit in January 2014 for the property's use for his trucking operation, "Grell Trucking."

Grell reported there are two other properties in the area that have similar operations but are classified agricultural. According to Grell, one property is 39 acres and six trucks and ten trailers operate from the parcel; the other is 15.5 acres and has 20 trucks. Grell indicated neither of these properties were part of a big farming operation. Neither party offered any additional information regarding these parcels.

County Assessor Dale Denklau testified on behalf of the Board of Review. He reported that he looked at the subject property by itself since the Grell Family Trust owned it and the other properties were owned by Grell Acres, LLC. Denklau reported the property has been classified commercial for at least the past three years and likely longer.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). However, if property is classified agricultural it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

Grell submits that his property fits within the definition of 'agricultural land' in Iowa Code Chapter 425A and therefore should be classified agricultural. However, Chapter 425A concerns the Family Farm Tax Credit and its definition is not applicable to the classification of property for assessment purposes. Rather, the Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code Ch. 701-71.1. (Exhibit D). Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). "Under administrative

regulations adopted by the . . . Department . . . the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1).

By administrative rule, commercial real estate

shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. . . An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. . . .

Iowa Admin. r. 701-71.1(5).

Conversely, agricultural property

shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.

. . .

Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.

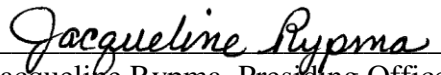
Iowa Admin. Code r. 701-71.1(3) (Exhibit A).

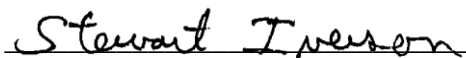
Grell maintains the subject property should be classified agricultural primarily because he considers it part of the “farm,” which includes other parcels used for agricultural purposes. By his own admission, however, Grell uses this parcel exclusively to store equipment used for his transportation business. Grell did not provide evidence or testimony suggesting any agricultural use was occurring on this parcel; nor is it woodland, wasteland, or pastureland operated in conjunction with another agricultural parcel.

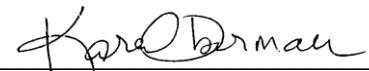
Following Iowa law and administrative rules governing the classification of real estate, we find the preponderance of the evidence in the record does not support the claim that the property is misclassified as of January 1, 2013. The record demonstrates the use of the property is primarily for commercial purposes and the commercial classification should be retained.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the Grell property located at 27200 Allens Grove Road, Donahue, Iowa, as set by the Scott County Board of Review, is affirmed.

Dated this 4th day of September, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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